

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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:
DUNKIN' DONUTS FRANCHISED :
RESTAURANTS LLC, :
a Delaware Limited Liability Company, :
:

BASKIN-ROBBINS FRANCHISED SHOPS LLC, :
a Delaware Limited Liability Company, :
:

Plaintiffs, :
:

v. :
:

TKNY PARTNERS LLC, :
a New York Limited Liability Company, :
:

Defendant. :
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C.A. No. 07-CV-3108 (RWS)

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Plaintiffs Dunkin' Donuts Franchised Restaurants LLC ("Dunkin' or Dunkin' Donuts") and Baskin-Robbins Franchised Shops LLC ("Baskin-Robbins") hereby move to enjoin their franchisee, Defendant TKNY Partners LLC to cease violating at its Dunkin' Donuts and Baskin-Robbins shop the standards for health, sanitation, and safety set forth in Defendant's Franchise Agreement with Plaintiffs and Plaintiffs' operating manuals. At present, Defendant is in flagrant violation of those standards. For example, a recent inspection of Defendant's shop revealed numerous violations of health and safety standards, including evidence of flies, dirty food racks, food products that were not protected from contamination, and refrigerated items that were not stored in cold holding units. Despite requests by Plaintiffs and ample opportunity to cure, Defendant refuses to correct this unacceptable situation. This is an action to effect an immediate cure of specific conditions currently posing a health or safety risk at Defendant's shop. These

conditions are a material breach of the Franchise Agreement as well. Plaintiffs do not seek an order mandating future compliance, but only the cessation of an existing condition.

1. At all times relevant to this action Defendant TKNY Partners LLC has been the owner and operator of a retail doughnut shop and retail ice cream store located at 2083 Lexington Avenue, New York, New York 10035 (“Defendant’s Shop”) pursuant to a Franchise Agreement dated February 1, 2006.

2. Plaintiffs’ representative recently inspected Defendant’s Shop and found numerous violations of health, sanitation, and safety standards. Despite notice by Plaintiffs and ample opportunity to cure, Defendant has failed to correct this situation.

3. By this Motion, Plaintiffs seek to enjoin Defendant to cease violating at Defendant’s Shop the standards for health, sanitation, and safety set forth in the Franchise Agreement between the parties and Plaintiffs’ operating manuals.

4. In support of this Motion, Plaintiffs rely on the accompanying Memorandum of Law, certifications, and exhibits.

WHEREFORE, Plaintiffs respectfully request that the Court grant their motion for a preliminary injunction and enjoin Defendant to cease violating at its Shop Plaintiffs’ standards for health, sanitation, and safety as identified on the Food Safety and Sanitation Inspection Report form dated April 2, 2007 within five (5) days of the date of the Court’s Order.

Respectfully submitted,

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Dated: April 19, 2007